

MR. CANNON of Missouri: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

MR. MARCANTONIO: Mr. Chairman, I make a point of order on the same grounds against the item for the Office of Defense Transportation on page 5.

MR. CANNON of Missouri: The point of order is conceded, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York [Mr. Marcantonio] makes a point of order which the gentleman from Missouri [Mr. Cannon] concedes. The Chair sustains the point of order.

§ 19.7 Where unanimous consent is granted that the remainder of an appropriation bill be considered as read and that all portions thereof be subject to amendments and to points of order, the Chair suggests that points of order be disposed of first since it will be too late to make such points after amendments to the bill have been considered.

On Apr. 25, 1947,⁽¹²⁾ during consideration of H.R. 3123, the Department of the Interior appropriations bill, 1948, Chairman Earl C. Michener, of Michigan, suggested a time for the raising of points of order against amendments to the bill.

MR. [ROBERT F.] JONES of Ohio: Mr. Chairman, I ask unanimous consent

that the remainder of the bill be considered as read and that all portions thereof be subject to amendment and to points of order.

THE CHAIRMAN: Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE CHAIRMAN: The Chair suggests that the points of order be disposed of first under this procedure, before the amendments.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, a point of order. . . .

My point of order, Mr. Chairman, is that that is legislation amending a previous act and not within the purview of this bill making appropriations for fiscal 1948. It constitutes legislation on an appropriation bill for it destroys existing legislation.

THE CHAIRMAN: This language changes a contract authorization contained in a previous appropriation bill passed by another Congress. The Chair sustains the point of order.

Are there any further points of order to be made to the bill? If so, they will be taken up first since it will be too late to make points of order after amendments to the bill have been considered.

§ 20. Timeliness

Points of order on general appropriation bills are usually reserved in the House at the time of reference to the Committee of the Whole (to the Union Calendar) to permit the Committee to strike

12. 93 CONG. REC. 4098, 80th Cong. 1st Sess.

out portions in violation of the rules.⁽¹³⁾ This reservation is necessary only on general appropriation bills;⁽¹⁴⁾ failure to reserve the point of order precludes a ruling on it because the Chairman may not take away from the Committee of the Whole a portion of a bill committed to it by the House.⁽¹⁵⁾ Not all points of order on appropriation bills must be reserved prior to reference to the Committee of the Whole, however. Points of order against the consideration of an appropriation bill, since made in the House, need not be reserved in advance. A point of order based on a rule which prohibits reporting of bills or joint resolutions carrying appropriations by committees which do not have jurisdiction to report appropriations may be made anytime.⁽¹⁶⁾

Generally, points of order against a provision in a bill or amendment are properly made when that provision or amendment is reached in the reading. Points of order against bills in

their entirety are normally in order when called up.

Some points of order may not be raised in the Committee of the Whole. Those relating to a comparative print of proposed changes in law,⁽¹⁷⁾ printing a bill and hearings prior to floor consideration,⁽¹⁸⁾ and failure of a quorum to be present in a standing committee when a bill was reported⁽¹⁹⁾ come too late in the Committee of the Whole; they should be raised in the House against consideration of the bill pending the motion to resolve into the Committee.

A point of order against a bill or a portion thereof based upon lack of committee jurisdiction of the committee reporting the bill comes too late when the bill is under consideration in Committee of the Whole, the proper remedy being the motion to correct an erroneous reference under Rule XXII clause 4 prior to the reporting of the bill.⁽¹⁾

On Ramseyer Rule

§ 20.1 The point of order that a report fails to comply with

13. 5 Hinds' Precedents §§6921–6925; 8 Cannon's Precedents §3450.

Points of order on appropriation bills generally, see Ch. 25, *infra*.

14. 5 Hinds' Precedents §6926.

15. §20.11, *infra*.

16. Rule XXI clause 5, *House Rules and Manual* §846 (1979); and 7 Cannon's Precedents §2148.

17. §§20.1–20.3, *infra*.

18. §20.4, *infra*.

19. §20.5, *infra*.

1. See House Rules and Manual §854 (1979). See also 4 Hinds' Precedents §4372; 7 Cannon's Precedents §§2112, 2114, 2115.

the requirement that proposed changes in law be indicated typographically is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole.

On June 13, 1959,⁽²⁾ Speaker pro tempore John W. McCormack, of Massachusetts, stated that the point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically as required by the Ramseyer rule, Rule XIII clause 3,⁽³⁾ is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole.⁽⁴⁾

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6893) to amend the District of Columbia Stadium Act of 1957. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I desire to make a point of

order against the consideration of the bill and the report. When is the proper time to seek recognition for this purpose?

THE SPEAKER PRO TEMPORE: This is the proper time for the gentleman to make this point of order.

MR. GROSS: . . . I submit, Mr. Speaker, and make the point of order, that this report No. 643, does not conform to rule XIII, otherwise known as the Ramseyer rule.

§ 20.2 The point of order that a report fails to comply with the Ramseyer rule comes too late after the House has resolved into the Committee of the Whole for consideration of the bill.

On Aug. 17, 1949,⁽⁵⁾ during consideration of House Joint Resolution 339, amending an act making temporary appropriations for fiscal year 1950, as amended (continuing resolution), Chairman Jere Cooper, of Tennessee, indicated the time for raising a point of order that a report does not comply with the Ramseyer rule.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a point of order. I was on my feet urging a point of order when the motion was made to go into committee. I make the point of order that this bill is not properly before the House, for the simple reason that the report does not comply

2. 105 CONG. REC. 13226, 13227, 86th Cong. 1st Sess. See 114 CONG. REC. 24245, 24252, 90th Cong. 2d Sess., July 30, 1968, for another illustration of this principle.

3. *House Rules and Manual* §745 (1979).

4. See 8 Cannon's Precedents §2243 for another precedent which states this principle.

5. 95 CONG. REC. 11654, 81st Cong. 1st Sess.

with the Ramseyer rule, and therefore the membership is not properly informed as to what had obtained.

THE CHAIRMAN: Of course, that point of order would have to be made in the House and not in Committee of the Whole. The point of order comes too late, and the Chair overrules the point of order.

§ 20.3 On appeal, the Committee sustained the Chair's ruling that a point of order against a committee report comes too late after the House has resolved itself into the Committee of the Whole.

On July 5, 1966,⁽⁶⁾ during consideration of H.R. 14765, the Civil Rights Act of 1966, the Committee of the Whole on appeal sustained a ruling of Chairman Richard Bolling, of Missouri, on the timeliness of a point of order that a committee report violates Rule XIII clause 3,⁽⁷⁾ the Ramseyer rule.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Chairman.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I yield myself such time as I may care to use.

Mr. Chairman, Negroes propose to be free. Many rights have been denied and withheld from them. The right to be equally educated with whites. The

right to equal housing with whites. The right to equal recreation with whites.

MR. WILLIAMS: Mr. Chairman, point of order.

MR. CELLER: Regular order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his point of order.

MR. WILLIAMS: Mr. Chairman, immediately before the House resolved itself into the Committee of the Whole House I was on my feet on the floor seeking recognition for the purpose of making a point of order against consideration of H.R. 14765 on the ground that the report of the Judiciary Committee accompanying the bill does not comply with all the requirements of clause 3 of rule XIII of the rules of the House known as the Ramseyer rule and intended to request I be heard in support of that point of order. I was not recognized by the Chair. I realize technically under the rules of the House at this point, my point of order may come too late, after the House resolved itself into the Committee of the Whole House on the State of the Union.

MR. CELLER: Mr. Chairman.

MR. WILLIAMS: But I may say, Mr. Chairman, that I sought to raise the point of order before the House went into session. May I ask this question? Is there any way that this point of order can lie at this time?

THE CHAIRMAN: Not at this time. It lies only in the House, the Chair must inform the gentleman from Mississippi.

MR. WILLIAMS: May I say that the Parliamentarian and the Speaker were notified in advance and given copies of the point of order that I desired to

6. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess.

7. House Rules and Manual §745 (1979).

raise, and I was refused recognition although I was on my feet seeking recognition at the time.

MR. [JOHN J.] FLYNT [Jr., of Georgia]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The Chair will have to repeat that the gentleman from Mississippi is well aware that this present occupant of the chair is powerless to do other than he has stated.

MR. [JOSEPH D.] WAGGONER [Jr., of Louisiana]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as rendered?

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 139, noes 101.

The decision of the Chair was sustained.⁽⁸⁾

Printing of Bill and Hearings

§ 20.4 After the House has resolved itself into the Committee of the Whole it is too late to make a point of order that the bill and hearings have not been printed and that minority views do not accompany the report.

On Nov. 4, 1943,⁽⁹⁾ during consideration of H.R. 4598, the first

8. See § 18.4, *supra*, for a precedent relating to entertainment of this point of order by the Speaker after the Committee of the Whole rose on motion.

9. 89 CONG. REC. 9121, 78th Cong. 1st Sess.

supplemental national defense appropriations bill, Chairman John J. Sparkman, of Alabama, ruled untimely a point of order that a bill and hearings had not been printed and that minority views did not accompany the report.

MR. [EARL] WILSON [of Indiana]: Then, Mr. Chairman, I make the point of order against further consideration of the bill on the ground that it has not been printed and presented to the House, and that the majority hearings have not been printed and presented to the House 24 hours ahead of the time when the bill is called up. Further, the minority views have not been printed.

THE CHAIRMAN: The point of order comes too late. The House has already committed the bill to the Committee of the Whole House on the state of the Union and the bill is now properly before the Committee for its consideration. The point of order does not lie at this time.

Quorum in Standing Committee

§ 20.5 Points of order against a bill on the ground that a quorum of the standing committee was not present when the bill was ordered reported should be made in the House; such points come too late after the House has resolved itself into the Committee of the Whole for consideration of the bill.

On June 14, 1946,⁽¹⁰⁾ during consideration of S. 524, the national cemetery bill, Chairman Jere Cooper, of Tennessee, stated that points of order that a quorum of the standing committee was not present when the bill was ordered reported should be made in the House.

MR. [FOREST A.] HARNESS of Indiana. Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HARNESS of Indiana: At what time would a point of order lie against the bill on the ground that the committee reporting it was without jurisdiction because at the time it reported the bill there was not a quorum present?

THE CHAIRMAN: Answering the gentleman's parliamentary inquiry the Chair will state that such a point of order would be too late now that the House is in the Committee of the Whole House on the State of the Union. Such a point of order should be made in the House before consideration of the bill.

Effect of Commencement of Debate

§ 20.6 A point of order in the Committee of the Whole against an amendment to an appropriation bill comes too late if there has been debate on the amendment.

10. 92 CONG. REC. 6961, 79th Cong. 2d Sess.

On Apr. 25, 1947,⁽¹¹⁾ during consideration of H.R. 3123, the Department of the Interior appropriations bill, 1948, Chairman Earl C. Michener, of Michigan, held that a point of order came too late after commencement of debate.

MR. [LOWELL] STOCKMAN [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stockman: Page 34, line 11, strike out "\$125,000" and insert "\$2,500,000."

MR. STOCKMAN: Mr. Chairman, the amount allowed by the budget for this item—

MR. [ROBERT F.] JONES of Ohio: Mr. Chairman, I would like to make a point of order against this amendment, but will reserve it for the moment.

MR. [CARL] HINSHAW [of California]: Mr. Chairman, I make the point of order that that comes too late.

THE CHAIRMAN: The gentleman from Ohio makes a point of order. The gentleman from Oregon had already been recognized and had started debate. The Chair wants to be extremely fair and not too technical, but that is the situation. The Chair is constrained to hold that the point of order comes too late.

§ 20.7 A Member who has shown due diligence has been recognized to make a

11. 93 CONG. REC. 4079, 80th Cong. 1st Sess. See 88 CONG. REC. 754, 77th Cong. 2d Sess., Jan. 27, 1942, for another example of this principle.

point of order against a proposed amendment even though the sponsor of the amendment has commenced his remarks.

On June 23, 1945,⁽¹²⁾ during consideration of House Joint Resolution 101, extending the Price Control and Stabilization Acts, Chairman Jere Cooper, of Tennessee, recognized a Member to make a point of order notwithstanding the fact that the sponsor of the amendment had commenced his remarks.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Case of South Dakota: Insert a new section after section 2 to read as follows:

"The Secretary of Agriculture shall confer with the Secretary of War and the Secretary of the Navy from time to time on the supplies of meat, sugar, poultry, dairy and vegetable products available in continental United States for military and civilian needs and said Secretary of Agriculture is authorized and directed to borrow or divert from military channels for critical civilian needs such stocks or supplies as he finds can be spared by the military and in such amounts as he can certify to the Secretary of War or the Secretary of the Navy can and will be restored by the time they are needed."

MR. CASE of South Dakota: Mr. Chairman, this amendment proposes—

12. 91 CONG. REC. 6597, 6598, 79th Cong. 1st Sess.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. SPENCE: Mr. Chairman, I make the point of order that the amendment is not germane to the bill; that it includes matters not contemplated by the bill, and it goes far beyond the scope of the bill.

MR. CASE of South Dakota: Mr. Chairman, I think the gentleman's point of order comes too late, because I had been recognized and started to debate the amendment.

THE CHAIRMAN: The gentleman from Kentucky was on his feet, and the point of order does not come too late. Does the gentleman from South Dakota desire to be heard on the point of order? . . .

MR. SPENCE: Mr. Chairman, I insist on the point of order.

THE CHAIRMAN: . . . [T]he Chair is of the opinion that the amendment is in order especially in view of the present form of the pending bill at this stage. The Chair overrules the point of order.

Effect of Failure to Obtain Recognition to Debate

§ 20.8 Recognition of a Member by the Chair to offer an amendment does not give such Member the privilege of debating his amendment; consequently a point of order against an amendment may be made in a proper case even though a Member has started debate thereon if he

did not obtain recognition for that purpose (the Committee overruling the Chair on appeal).

On Feb. 1, 1938,⁽¹³⁾ during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill of 1939, it was contended that a point of order against an amendment was untimely in that it had been made after debate had begun. The proceedings were as follows:

The Clerk reads as follows:

Amendment offered by Mr. Collins: On page 68, line 20, after the period, insert a new paragraph, as follows:

"Street lighting: For purchase, installation, and maintenance of public lamps; lampposts, street designations, lanterns, and fixtures of all kinds on streets, avenues, roads, alleys, and for all necessary expenses in connection therewith, including rental of storerooms, extra labor, operation, maintenance, and repair of motortrucks, this sum to be expended in accordance with the provisions of existing law, \$765,000: *Provided*, That this appropriation shall not be available for the payment of rates for electric street lighting in excess of those authorized to be paid in the fiscal year 1927, and payment for electric current for new forms of street lighting shall not exceed 2 cents per kilowatt-hour for current consumed."

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, the language that is incorporated in the amendment—

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

MR. COLLINS: Eliminates the language against which the gentleman made the point of order.

MR. Chairman, I make the point of order that the gentleman's point of order comes too late.

THE CHAIRMAN:⁽¹⁴⁾ The gentleman from Oklahoma makes a point of order on the amendment, and the gentleman from Mississippi makes the point of order that the point of order made by the gentleman from Oklahoma comes too late.

The point of order of the gentleman from Mississippi is sustained. . . .

MR. NICHOLS: If the Chair did recognize the gentleman from Mississippi I may say the Chair recognized him while I was on my feet taking the only opportunity presented to me to address the Chair, in order that I might direct my point of order to the Chair.

THE CHAIRMAN: That may be true. The Chair does not care to indulge in any controversy on that question with the gentleman from Oklahoma. The Chair is merely stating what occurred. The Chair may state further to the gentleman from Oklahoma, in deference to the situation which has developed here, that if that had been true, under the rules it would have been the duty of the Chair to have recognized a member of the committee in preference to any other Member on the floor. The Chair was acting under the limitations of the rule. . . .

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, the rule, as I un-

13. 83 CONG. REC. 1372, 1373, 75th Cong. 3d Sess.

14. William J. Driver (Ark.).

derstand it, is that if any action is taken on the amendment, then the point of order is dilatory. The only action that could have been taken was recognition by the Chair of the gentleman from Mississippi to debate his amendment.

I want to call the attention of the Chair to the fact the only manner in which the Chair can recognize a Member to be heard on this floor is to refer to the gentleman either by name or by the State from which the gentleman comes, and I call the attention of the Chair to the fact that the Chair in this particular instance did not say he recognized the gentleman from Mississippi or the gentleman [Mr. Collins], and for that reason there was no official proceeding and no official action taken between the time that the amendment was offered and the time the gentleman from Oklahoma made his point of order, and therefore the point of order was not dilatory.

THE CHAIRMAN: The Chair desires, in all fairness, to make this statement to the Committee, as well as directly to the gentleman from Michigan. Not only was the gentleman from Mississippi recognized, but he began an explanation of his amendment, and the Chair certainly presumes that the gentleman being on the floor at the time heard that; and when that occurred, the Chair does not think the gentleman will disagree with the Chair about the fact that the Chair is required, under the rules, to rule in deference to the situation that developed. The Chair does not desire to forestall proceedings and would be pleased to hear points of order, but the Chair must act within the definition of the rule.

MR. WOLCOTT: If the Chair will indulge me for a moment in that respect, the point I wish to make is this. The gentleman from Mississippi had no authority to address this Committee until he had been recognized by the Chair, and if the gentleman from Oklahoma made his point of order during a brief sentence by someone which had no right under the rules of this House even to be reported by the official reporter, then he cannot be estopped, under those circumstances, from making his point of order. The Chair of necessity must have recognized the gentleman from Mississippi to debate the amendment.

The offering of an amendment is not a proceeding which will estop the gentleman from Oklahoma from making his point of order. It is recognition by the Chair of another gentleman to discuss the amendment, and the gentleman could have discussed the amendment only after recognition was given. . . .

MR. NICHOLS: If the Chair has made a final ruling, I would, in the most respectful manner I know, request an appeal from the decision of the Chair.

THE CHAIRMAN: The gentleman from Oklahoma appeals from the decision of the Chair on the ruling of the Chair on the point of order, as stated.

The question before the Committee is, Shall the ruling of the Chair stand as the judgment of the Committee?

The question was taken, and the Chair announced that the noes had it.

So the decision of the Chair does not stand as the judgment of the Committee.

Appeal of Chair's Ruling on Timeliness

§ 20.9 A ruling of the Chairman that a point of order is

untimely may be appealed to the Committee of the Whole.

On Feb. 1, 1938,⁽¹⁵⁾ during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill, 1939, the Committee of the Whole overruled a decision of the Chairman that a point of order had been made too late. The Chair invoked the principle that a point of order on an amendment is made too late after commencement of debate on the amendment. But the Committee took the view that recognition to offer an amendment did not automatically extend to the privilege of debating that amendment, so that a point of order would be timely if the proponent of the amendment had commenced debate without first receiving recognition to debate.

Against Appropriation Bill

§ 20.10 The time for making points of order against items in an appropriation bill is after the House has resolved itself into the Committee of the Whole and after the paragraph containing such items has been read for amendment.

15. See §20.8, *supra*, for the relevant proceedings of this date.

On July 5, 1945,⁽¹⁶⁾ during consideration of a motion that the House resolve into the Committee of the Whole for consideration of H.R. 3649, the war agencies appropriation bill, 1946, Speaker Sam Rayburn, of Texas, stated the rule as to the proper time to raise points of order against items in an appropriation bill.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if, as in this case, the bill contains many items that are subject to a point of order, is it not in order to make a point of order against sending this bill to the Committee of the Whole?

THE SPEAKER: Under the rules of the House, it is not.

MR. MARCANTONIO: Then the procedure to make the point of order is to make it as the bill is being read for amendment?

16. 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

THE SPEAKER: As the paragraphs in the bill are reached.

Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair.

Time to Reserve Point of Order of Legislation on Appropriation Bill

§ 20.11 Where points of order were not reserved on an appropriation bill when it was reported to the House and referred to the Committee of the Whole, points of order against a proposition in violation of Rule XXI clause 2,⁽¹⁷⁾ as legislation on an appropriation bill, were overruled on the ground that the Chairman lacked authority to pass upon that question.

On Apr. 8, 1943,⁽¹⁸⁾ during consideration of H.R. 2409, the legislative and judiciary appropriation, 1944, Chairman James P.

17. *House Rules and Manual* §834 (1979).

18. 89 CONG. REC. 3150-53, 78th Cong. 1st Sess.

McGranery, of Pennsylvania, declined to rule on points of order that certain sections of a bill violated Rule XXI clause 2, allegedly legislation on an appropriation bill, because such points of order had not been reserved when the bill was reported to the House and referred to the Committee of the Whole.

The Clerk read as follows:

Salaries of clerks of courts: For salaries of clerks of United States circuit courts of appeals and United States district courts, their deputies, and other assistants, \$2,542,900.

. . .

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Chairman, I make the point of order that the material contained in line 20, page 55, down to the end of the paragraph on page 56, line 11, is legislation on an appropriation bill.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I make the point of order that there was no reservation made when this bill was introduced with reference to points of order, and the Record will bear me out. Therefore, a point of order against anything in the bill now is not in order. . . .

MR. WALTER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WALTER: Is not the Chair in the position at this moment of having to rule on the point of order made by the gentleman from Missouri?

THE CHAIRMAN: The Chair will have to rule unless the point of order is

withdrawn. In that case the Chair would not be required to rule.

The Chair is prepared to rule, if there is no withdrawal of the points of order.

In this connection the Chair feels that there is a duty upon all Members to read the rules, which are published. This is not just mere custom, as the Chair sees it.

The Journal discloses that there were no points of order reserved on the pending bill when it was reported to the House on April 6, 1943.

The Chair has been very deeply impressed with the decisions on this question which run back to 1837, particularly an opinion expressed by Chairman Albert J. Hopkins, of Illinois, on March 31, 1896—Hinds' Precedents, volume V, section 6923—in which it was stated:

In determining this question the Chair thinks it is important to take into consideration the organization and power of the Committee of the Whole, which is simply to transact such business as is referred to it by the House. Now, the House referred the bill under consideration to this Committee as an entirety, with directions to consider it. The objection raised by the gentleman from North Dakota would, in effect, cause the Chair to take from the Committee the consideration of part of this bill, which has been committed to it by the House. The Committee has the power to change or modify this bill as the Members, in their wisdom, may deem wise and proper; but it is not for the Chairman, where no points of order were reserved in the House against the bill. . . . The effect would be, should the Chair sustain the point of order made by the gentleman from North Dakota, to take from the consideration of the

Committee of the Whole a part of this bill which has been committed to it by the House without reservation of this right to the Chairman.

Hopkins then held that he had no authority to sustain a point of order against an item in the bill.

The present occupant of the chair feels constrained to follow the precedents heretofore established and sustains the point of order made by the gentleman from Missouri [Mr. Cochran].

MR. [EARL C.] MICHENER [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MICHENER: For the sake of clarity and for the future, and may I say I have great respect for the Chairman's ruling, will the Chair differentiate between an appropriation bill in his final decision as written, that is, differentiate between the Hopkins decision which applies for all logical reasons to all legislative committees the same as it does to the Appropriations Committee?

THE CHAIRMAN: The Chair thinks if the gentleman will read clause 2 of rule XXI he will find that provision applies merely to appropriation bills, while clause 4 of rule XXI applies to legislative bills coming from committees not having appropriating powers.

MR. MICHENER: That is the decision.

THE CHAIRMAN: Yes.

MR. WALTER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WALTER: As I understood the Chairman, the point of order was overruled?

THE CHAIRMAN: The Chair held that in the Chair's opinion he cannot pass upon the question raised by the gentleman. The Chair feels this bill was given to the Committee of the Whole House on the State of the Union in its entirety and that the Chair cannot under the present circumstances sustain a point of order against an item.

MR. WALTER: I understand that, but does the Chair mean that the point of order made by the gentleman from Missouri is sustained?

THE CHAIRMAN: The Chair sustained the point of order made by the gentleman from Missouri and overruled the point of order made by the gentleman from Pennsylvania.

MR. [KARL] STEFAN [of Nebraska]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. STEFAN: May I ask the Chair if the ruling affects page 56, line 12, down to line 25, the part of the bill which had not been read?

THE CHAIRMAN: The Clerk has not read that part of the bill.

MR. STEFAN: Then it has no effect upon the language appearing on page 56, lines 1 to 11?

THE CHAIRMAN: The Chair's decision just now given will affect every item in the bill.

MR. STEFAN: In the entire bill?

THE CHAIRMAN: Yes.

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE: Mr. Chairman, I note in reading the precedent to which the

Chair has referred, volume 5, Hinds Precedents, page 957, that the Chairman at that time recognized that this was a very close question. The Chair raised this question: "The very most that could be done would be to report the point of order back to the House for its decision."

In other words, in taking the point of view that since the House had referred the bill to the Committee, no such question rose, the Chair might refer it back to the House for further instruction, which would be within the ruling that the Chair cited.

THE CHAIRMAN: As the Chair read the particular case, that was the suggestion made by the Chairman, but there is nothing in the decision to show that that was actually done.

Effect of Failure to Raise Point of Order

§ 20.12 If no point of order is raised against an amendment proposing legislation on an appropriation bill being considered in the Committee of the Whole, the amendment may be perfected by germane amendments which provide exceptions from the language permitted to remain but do not add further legislation.

On Jan. 31, 1938,⁽¹⁹⁾ during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill, 1939, Chairman

¹⁹ 83 CONG. REC. 1309, 1312, 75th Cong. 3d Sess.

William J. Driver, of Arkansas, stated that if no point of order is raised against it, an amendment proposing legislation on an appropriations bill may be perfected by germane amendments which do not add further legislation on an appropriations bill.

The Clerk read as follows:

Amendment offered by Mr. [Mil-lard F.] Caldwell [of Florida]: Page 13, line 2, after the amendment offered by Mr. Kennedy, insert a new paragraph, as follows:

"For a complete investigation of the administration of public relief in the District of Columbia, to be made under the supervision and direction of the Commissioners, including the employment of personal services without reference to the Classification Act of 1923, as amended, and civil-service requirements, \$5,000." . . .

The Clerk read as follows:

Amendment offered by Mr. Caldwell to the amendment pending: After the word "relief" in the proposed amendment, insert "not including the activities of the Works Progress Administration."

MR. [CLAUDE A.] FULLER [of Arkansas]: Mr. Chairman, I make the point of order against the amendment for the reason that it is legislation on an appropriation bill and, furthermore, that it seeks to make an appropriation for an item not authorized by law. . . .

THE CHAIRMAN: Objection is heard. The Chair is ready to rule. The gentleman from Florida offers an amendment to the pending amendment in the following language:

After the word "relief" in the proposed amendment, insert "not in-

cluding the activities of the Works Progress Administration."

That is the amendment to the amendment offered and to which the gentleman from Arkansas addresses his point of order. The original amendment proposed legislation on an appropriation bill, but no point of order was raised against it. That being so, an amendment that would contain an exception would be germane and in order, certainly. Therefore, the point of order that the gentleman directs to the amendment to the amendment must be overruled.

Point of Order as to Diversion of Appropriated Funds

§ 20.13 A point of order against an amendment to a legislative bill proposing an appropriation of funds that have already been appropriated is in order even though debate has started on such amendment, since Rule XXI clause 5 permits such a point of order "at any time."

On July 29, 1953,⁽¹⁾ during debate on an amendment to H.R. 6016, an emergency famine relief bill, Chairman Glenn R. Davis, of Wisconsin, sustained a point of order against the amendment to a bill reported from a committee not having authority to report appropriations, on the ground that it

1. 99 CONG. REC. 10398, 83d Cong. 1st Sess.

proposed an appropriation of funds previously appropriated for a specific purpose.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. JONES of Missouri: Mr. Chairman, would this be the proper time to make a point of order against some wording in section [2]?

THE CHAIRMAN: The Chair will hear the gentleman to state the point of order.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, may I suggest that the point of order comes too late, the section has been read.

MR. JONES of Missouri: We are debating on the whole bill, and I suggest that we do not want to pass a bill without considering every part of it.

THE CHAIRMAN: Section (2) is now under consideration.

MR. JONES of Missouri: Mr. Chairman, that is what I want to make my point of order on.

THE CHAIRMAN: The gentleman will state the point of order.

MR. JONES of Missouri: Mr. Chairman, I make a point of order against the wording beginning on line 24:

Any assets available to the Commodity Credit Corporation may be used in advance of such appropriations or payments, for carrying out the purposes of this act.

Mr. Chairman, I make that point of order on the ground that when I offered an amendment authorizing that the \$100 million be taken from funds heretofore appropriated for the Mutual

Security Administration, the point of order was sustained that those funds were already appropriated for a specific purpose and that we could not divert such funds. I am making the same point of order now that any assets available to the Commodity Credit Corporation which have heretofore been appropriated would be by the same token diverted to this purpose for the use of the Mutual Security Administration. In other words, the situation if this is permitted to stay in the bill would be that we could not divert Mutual Security funds to carry out this, but that we could divert agricultural funds to carry out a mutual-security program. . . .

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FULTON: Mr. Chairman, is it not the parliamentary situation here that debate has commenced on section 2 at the particular time when the point of order is being made by the gentleman from Missouri [Mr. Jones]?

THE CHAIRMAN: The Chair is advised that this point of order may be made at any time of the consideration of the section.

The Chair is ready to rule. Since the previous point of order was sustained on similar grounds, the Chair now sustains the point of order of the gentleman from Missouri [Mr. Jones].

Parliamentarian's Note: Rule XXI clause 5, *House Rules and Manual* § 846 (1979) provides:

No bill or joint resolution carrying appropriations shall be reported by any

committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

Point of Order as to Germaneness

§ 20.14 A point of order as to the germaneness of an amendment may be reserved when the amendment is read, and the Chairman rules on the point of order when the sponsor of the amendment ends his five-minute debate.

On Apr. 13, 1946,⁽²⁾ during consideration of H.R. 6064, extending the Selective Service and Training Act, with Chairman Alfred L. Bulwinkle, of North Carolina, presiding, the following proceedings took place:

MR. [ROSS] RIZLEY [of Oklahoma]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rizley: On page 2, line 18, after the word "months" and before the word "unless", insert the following: "except that every individual heretofore inducted under the provision of sub-

section (a) who has a wife and one or more legitimate children, shall upon his request in writing be excused from further service and shall be separated from the service within 60 days from and after the effective date of this act."

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MAY: Having reserved a point of order on the amendment, Mr. Chairman, does that point of order have to be ruled upon when the party offering it finishes his debate?

THE CHAIRMAN: It should be. The gentleman will state his point of order.

MR. MAY: Mr. Chairman, my point of order is that this amendment has the effect of requiring the Army to discharge a certain group of people that are already in the service. The statute under consideration to which the gentleman's pending amendment is offered is an induction statute and not a discharge law.

THE CHAIRMAN: Does the gentleman from Oklahoma desire to speak on the point of order?

MR. RIZLEY: I think certainly the amendment is pertinent to this very section of the bill. The bill provides that no one can be taken into the service for more than 18 months, and I simply offered an amendment which excepts married men already in the service and says that they shall be discharged within 60 days from the effective date of this act.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

2. 92 CONG. REC. 3660-63, 79th Cong. 2d Sess.

The amendment offered by the gentleman from Oklahoma relates to the discharge of men. It is not germane either to the section or to the bill. The Chair sustains the point of order.

Effect of Agreement to Dispense With Reading

§ 20.15 Where the Committee of the Whole agrees that the remainder of an appropriation bill be considered as read and open at any point to points of order and amendments, the Chair asks if there are any points of order and then if there are any amendments; points of order against portions of the bill made subsequent to the offering of amendments are not recognized.

On Aug. 19, 1949,⁽³⁾ during consideration of H.R. 6008, the supplemental appropriations bill, 1950, Chairman Aime J. Forand, of Rhode Island, declined to entertain a point of order against a portion of the bill after an amendment was offered. The Chairman noted that he had requested that points of order be raised when the further reading of the bill was dispensed with.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I ask unanimous

3. 95 CONG. REC. 11870, 11876, 81st Cong. 1st Sess.

consent that the remainder of the bill be considered as read and be open at any point to points of order and amendments.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE CHAIRMAN: Are there any points of order?

If not, are there any amendments?

MR. [WILLIAM M.] WHEELER [of Georgia]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wheeler: On page 6, line 17, strike out all the paragraph to and including all of lines 16 on page 7. . . .

MR. [JAMES P.] SUTTON [of Tennessee]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. SUTTON: Mr. Chairman, I make the point of order against the language on page 19 that it is legislation on an appropriation bill.

THE CHAIRMAN: The point of order comes too late. At the time the further reading of the bill was dispensed with, the Chair requested Members desiring to make points of order to do so at that time.

The Chair recognizes the gentleman from Nebraska [Mr. Miller].

Report on Striking Language From Senate Bill

§ 20.16 Where language in violation of Rule XXI clause 5⁽⁴⁾

4. House Rules and Manual §846 (1979), which makes subject to

is stricken from a Senate bill in the Committee of the Whole by a point of order, the Chairman reports that fact to the House when the measure is reported to the House.

On July 31, 1957,⁽⁵⁾ after the Committee of the Whole rose and reported a bill, Chairman George H. Mahon, of Texas, reported that language in violation of then Rule XXI clause 4 (now clause 5), had been stricken from the bill by the Committee.

THE CHAIRMAN: The time of the gentleman from Michigan has expired.

All time has expired.

The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Mahon, Chairman of the Committee of the Whole House on the State of the Union, stated that that Committee having had under consideration the bill (S. 1856) to provide for the development and modernization of the national system of navigation and traffic-control facilities to serve present and future needs of civil and military

points of order appropriation measures reported from committees that do not have jurisdiction over appropriations.

5. 103 CONG. REC. 13182, 13183, 85th Cong. 1st Sess. The point of order against the language in question, as being an appropriation on a legislative bill, is at p. 13056 (July 30 1957).

aviation, and for other purposes, pursuant to House Resolution 361, he reported the same back to the House.

The Chairman also reported that the language in the bill on page 7, line 12, reading as follows: "and unexpended balances of appropriations, allocations, and other funds available or" was stricken out on a point of order.

Parliamentarian's Note: If the Senate bill passes the House in this form, it is messaged to the Senate as having been passed with an amendment, although the House does not vote separately on the language stricken in Committee of the Whole on a point of order.

Points of Order Against Measure Committed to Conference

§ 20.17 Where a House bill with Senate amendments has been sent to conference and the stage of disagreement reached, it is too late to raise a point of order that the amendments of the Senate should have been considered in the Committee of the Whole pursuant to Rule XX clause 1.⁽⁶⁾

On Oct. 20, 1966,⁽⁷⁾ during consideration of Conference Report

6. *House Rules and Manual* §827 (1979).

7. 112 CONG. REC. 28240, 28241, 89th Cong. 2d Sess.

No. 2327, on H.R. 13103, the Foreign Investment Tax Act of 1966, Speaker John W. McCormack, of Massachusetts, stated that a point of order under Rule XX clause 1, that a particular Senate amendment should have been considered in the Committee of the Whole, comes too late after conferees have reported.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I call up the conference report on the bill (H.R. 13103) to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I desire to make a point of order against title III of the conference report.

THE SPEAKER: The gentleman will state his point of order.

MR. SMITH of Virginia: Mr. Speaker, this point of order is directed at title III of the conference report. That title is the one that provides for the contribution of \$1 apiece from any taxpayer who wishes to do so, to be used as a fund to be divided between the political parties in Presidential elections. The title itself has never been before the House. This is a Senate amendment to the bill that the gentleman from Arkansas has just called up. It is

not germane to that bill itself and comes under the prohibition of rule XX of the rules of the House. . . .

If that amendment had been offered when the bill was under consideration in the House it would have had to be under rule XX, and considered under rule XX that I have just read.

Now, because it is a bill which is an appropriation bill we cannot consider it except in the Committee of the Whole House on the State of the Union. This rule provides that if there is put on it a Senate amendment and it comes back it is subject to a point of order that it has not been considered in the Committee of the Whole House on the State of the Union. . . .

THE SPEAKER: The Chair is prepared to rule.

The gentleman from Virginia makes the point of order that title III of the conference report contravenes the first sentence of rule XX:

Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the State of the Union, if, originating in the House, it would be subject to that point:

Without passing upon the germaneness of the amendment, because that point was not raised, the Chair calls attention to the fact that the Senate amendment went to conference by unanimous consent. Where unanimous consent was obtained, the effect of that is to circuit rule XX, in other words, to waive or vitiate that portion of rule XX.

If objection had been made at the point when the unanimous consent request was made to send the bill to conference, then the bill could have been

referred to the proper standing committee, and then, if and when reported out of the committee would have been brought up for consideration in the Committee of the Whole House on the State of the Union.

At this point, and under the parliamentary situation, the bill was sent to conference by unanimous consent; and this applies to all bills that go to conference by unanimous consent, if there be provisions therein that might be subject to the first sentence of rule XX. If there is no objection made at that time, the bill goes to conference; which in this case had the effect of suspending that portion of rule XX. Therefore, it is properly before the House at the present time as part of the conference report and the Chair overrules the point of order.

MR. SMITH of Virginia: Mr. Speaker, may I add one comment since this is a very important question.

THE SPEAKER: The Chair will, of course, hear the gentleman.

MR. SMITH of Virginia: Mr. Speaker, this did not go to conference by unanimous consent because it was never in the House bill. It was in the Senate bill and it never got in the House bill until last night.

THE SPEAKER: The Chair will call to the attention of the gentleman from Virginia that the unanimous consent request was made to take a bill from the Speaker's desk with Senate amendments thereto, and disagree to the Senate amendments and request a conference.

F. RISING OF THE COMMITTEE OF THE WHOLE

§ 21. Generally

The Committee of the Whole may rise formally or informally. Sometimes, on the informal rising of the Committee of the Whole, the House by unanimous consent transacts unrelated business, such as the presentation of enrolled bills, the swearing in of a Member, or consideration of the message.⁽⁸⁾

8. 4 Hinds' Precedents §§ 4788–4791.

See Jefferson's Manual, *House Rules and Manual* §§ 330, 331, 333, 334, 563 (1973), for parliamentary law regarding rising of the Committee of the Whole.

The Committee of the Whole rises automatically on adoption of the recommendation that the enacting clause be stricken out.⁽⁹⁾

Formal and Informal Rise

§ 21.1 When the Committee of the Whole rises—that is, concludes or suspends its proceedings—it may do so either formally or informally. When it rises informally, it rises at the direction of the Chairman, without a formal mo-

9. 8 Cannon's Precedents § 2629.